

# EXHIBIT A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In Re: KEURIG GREEN MOUNTAIN )  
SINGLE SERVE COFFEE ANTITRUST )  
LITIGATION, )  
)  
JBR, INC., D/B/A ROGERS FAMILY )  
COMPANY, )  
) CASE NO.  
Plaintiff, ) 1:14-CV-0424  
) VSB-HBP  
VS. )  
)  
KEURIG GREEN MOUNTAIN, INC. )  
F/K/A/ GREEN MOUNTAIN COFFEE )  
ROASTERS, INC. AND AS SUCCESSOR)  
TO KEURIG, INCORPORATED, )  
)  
Defendant. )  
)

VIDEOTAPED DEPOSITION OF THOMAS LOWELL GARBER  
Volume 1

San Francisco, California

Wednesday, March 20, 2019

8:05 a.m. - 7:31 p.m.

Total time on record: 8 hours, 57 minutes

VERITEXT LEGAL SOLUTIONS  
MID-ATLANTIC REGION  
1801 Market Street - Suite 1800  
Philadelphia, PA 19103

1 Do you remember hearing that information from 11:18:08  
2 Whole Foods?

3 A. I -- I had it, so I must have.

4 Q. Do you recall going back to Miss Abrahamson to  
5 discuss this issue further with her, in light of the 11:18:29  
6 comments from Whole Foods?

7 A. I would have passed this on to the Rogers.

8 Q. Do you know if the Rogers --

9 A. I don't know.

10 Q. -- discussed it with the lawyers? 11:18:41

11 A. I'm sorry. No, I do not know.

12 Q. When you say you would have passed it on to the  
13 Rogers, do you mean you would have forwarded it to the  
14 Rogers Family e-mail alias, or would you have sent it  
15 to individuals? 11:18:52

16 A. I probably would have sent it to Jim Rogers,  
17 assuming that he would contact the lawyers, because I  
18 was not direct contact.

19 Q. Do you understand what Whole Foods is saying when  
20 they say, "Products that are customarily disposed of in 11:19:06  
21 the solid waste stream -- i.e., household trash -- may  
22 never make a biodegradable claim, since products in  
23 landfills typically do not biodegrade"?

24 A. I understand what they're saying, yes.

25 Q. Do you recall if JBR removed the biodegradable 11:19:22

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VIDEOTAPED DEPOSITION OF JOHN W. ROGERS

San Francisco, California

Wednesday, March 13, 2019

11:38 a.m. - 7:29 p.m.

Total time on record PM Session: 5 hours, 50 minutes

\* Total time listed on AM Session

Reported by:

LYDIA ZINN

RPR, FCRR, CSR No. 9223

Job No. 3234597

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1 Q. It looks like Ms. Hybsch is writing to you and 14:59:25  
2 your brothers, and that she's upset that JBR is going  
3 to be rolling out new packaging for the OneCups without  
4 any earth-friendly call-outs.

5 A. Mm-hm. 14:59:41

6 Q. She says, "I understand the reason for this is the  
7 legal challenges that we are facing in CA." She says  
8 that this will create a problem for her. She says an  
9 important factor in gaining distribution was/is our  
10 biodegradable claim. 15:00:01

11 A. Mm-hm.

12 Q. Lower down, she says, "Competitors will have a  
13 field day when suddenly our major claim that we have  
14 been touting for years just disappears off the box. In  
15 addition, competitors are going to be launching 100% 15:00:12  
16 compostable items by the end of the year, which is the  
17 same time that we are removing all of our  
18 earth-friendly call-outs from our boxes. This is a  
19 troubling situation."

20 And then Jim writes her back and says, "We are 15:00:26  
21 working on 100% compostability. In advance of that, we  
22 feel it prudent to remove previous claims. The new  
23 call-out will be more impactful that way."

24 When Jim says, "We feel it prudent to remove  
25 previous claims," was that a decision that the family 15:00:48

1 had made? 15:00:50

2 A. I don't remember. I don't think so. I think it  
3 was a Jim decision.

4 Q. You don't recall --

5 A. I don't know if I ever voted on that one. 15:01:00

6 Q. -- discussing?

7 A. No. I just don't remember, to tell you the truth.  
8 I really don't.

9 Q. Did you ever personally deal with anyone at one of  
10 the California District Attorney's Offices? 15:01:17

11 A. No.

12 Q. Was Jim the one dealing with --

13 A. Mm-hm.

14 Q. -- them?

15 And when the company settled with the California 15:01:23  
16 District Attorney, there was a vote by the Board?

17 A. No.

18 Q. Did the Board discuss it?

19 A. No. I think Jim came in and said, This is what  
20 happened. This is what we're doing. 15:01:43

21 And we said, Oh, yes. Go ahead. Do what you've  
22 got to do. Probably something like that.

23 I'm sure something was mentioned. I don't think  
24 we had anything formal. We have -- just depending on  
25 everyone's schedule, and if everyone's around. There 15:01:55

1 is no, like, strict schedule for Board meeting. We 15:01:57  
2 just do it whenever we can.

3 Q. Is there any rule about what triggers a Board  
4 vote?

5 A. No. 15:02:09

6 MS. BRANNON: I'd like to mark Exhibit 20 to  
7 the John Rogers deposition. This is an e-mail from you  
8 to a number of people at JBR. It's dated November 12,  
9 2015. And the Bates label is ROG001531740.  
10 (Deposition Exhibit 20 marked for identification.) 15:02:32

11 THE WITNESS: Okay.

12 BY MS. BRANNON:

13 Q. This seems to be an e-mail chain related to the  
14 Private Label Manufacturers Association.

15 A. Mm-hm. 15:03:35

16 Q. I think you testified earlier that around this  
17 time, 2015, was probably the last time anyone from JBR  
18 attended the PLMA trade show. It looks like  
19 Mr. Schoeppe is writing to senior folks at JBR, asking  
20 what he can say about the earth-friendly nature of 15:04:03  
21 OneCups.

22 A. Mm-hm.

23 Q. He says, "Our current new packaging does not  
24 indicate anything about our biodegradable, nor does it  
25 say anything about our product being compostable. I 15:04:16